

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JEFFERY LYNN KREIDLER, #227770,)

Plaintiff,

V.

CASE NO. 2:07-CV-263-WKW
[WO]

OFFICER SMITH, et al.,

Defendants.

RECOMMENDATION OF THE MAGISTRATE JUDGE

On July 5, 2007, the plaintiff, Jeffery Lynn Kreidler ["Kreidler"], filed a motion to dismiss officer Smith as a defendant in this cause of action. In support of this motion, Kreidler states that warden Thomas is the only defendant liable for the claims pending before this court. Moreover, the special report filed by the defendants establishes that officer Smith was neither personally involved nor in anyway responsible for the actions about which Kreidler complains.

Upon consideration of the plaintiff's motion to dismiss, the court concludes that this motion is due to be granted. The court further concludes that the plaintiff's claims against officer Smith are due to be dismissed with prejudice.

Accordingly, it is the **RECOMMENDATION** of the Magistrate Judge that:

1. The motion to dismiss filed by the plaintiff on July 5, 2007 (Court Doc. No. 16) be GRANTED.

2. The plaintiff's claims against defendant Smith be dismissed with prejudice.

3. Defendant Smith be dismissed from this cause of action.

4. The plaintiff's claims against defendant Thomas be referred back to the undersigned for additional proceedings.

It is further

ORDERED that on or before July 30, 2007 the parties may file objections to the Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which the party is objecting. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and advisements in the Magistrate Judge's Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the Recommendation and shall bar the party from attacking on appeal factual findings in the Recommendation accepted or adopted by the District Court except upon grounds of plain error or

manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, *en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done this 17th day of July, 2007.

/s/Charles S. Coody
CHARLES S. COODY
CHIEF UNITED STATES MAGISTRATE JUDGE